

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

CAROL GATTENBY	§	No. 22-cv-2538
F/K/A CAROL E. BURROUGHS	§	
Plaintiff,	§	
vs.	§	
FTS CAPITAL, LLC	§	
Defendant	§	
	§	

ANSWER OF DEFENDANT FTS CAPITAL, LLC

Defendant, FTS CAPITAL, LLC (“FTS CAPITAL” or “Defendant”), and filed this its Answer to Plaintiff's First Amended Petition to Quiet Title and to Remove the Cloud on Title (hereinafter "Petition"), and respectively shows the Court as follows:

1. Defendant states that paragraph I. of Plaintiff's First Amended Petition contains legal argument, legal conclusions or recitation of state law, rather than factual statements, to which no response is required. To the extent that this paragraph contains factual statements, Defendant denies same.

2. Defendant admits the allegations in paragraph II of Plaintiff's First Amended Petition.

3. The allegations in the second paragraph II, subparagraphs 1, 2 of Plaintiff's First Amended Petition relate to jurisdiction and venue. Defendant affirmatively states that jurisdiction and venue properly rests in this Court.

4. Defendant denies the allegations in paragraph III, subparagraph 4, of Plaintiff's First Amended Petition.

5. Defendant denies the allegations in paragraph III, subparagraph 5, of Plaintiff's First Amended Petition.

6. Defendant denies the allegations in paragraph III, subparagraph 6, of Plaintiff's First Amended Petition.

7. Defendant denies the allegations in paragraph IV, subparagraph 7, of Plaintiff's First Amended Petition.

8. Defendant denies the allegations in paragraph IV, subparagraph 8, of Plaintiff's First Amended Petition.

9. Defendant denies the allegations in paragraph IV, subparagraph 9, of Plaintiff's First Amended Petition.

10. Defendant denies the allegations in paragraph IV, subparagraph 10, of Plaintiff's First Amended Petition.

11. Defendant denies the allegations in paragraph IV, subparagraph 11, of Plaintiff's First Amended Petition.

12. Defendant denies the allegations in paragraph IV, subparagraph 12, of Plaintiff's First Amended Petition.

13. Defendant denies the allegations in paragraph IV, subparagraph 13, of Plaintiff's First Amended Petition.

14. Defendant denies the allegations in paragraph IV, subparagraph 14, of Plaintiff's First Amended Petition.

15. Defendant denies the allegations in paragraph IV, subparagraph 15, of Plaintiff's First Amended Petition.

16. Defendant denies the allegations in paragraph IV, subparagraph 16, of Plaintiff's First Amended Petition.

17. Defendant states that paragraph V of Plaintiff's Petition contains legal argument, legal conclusions or recitation of state law, rather than factual statements, to which no response is required. To the extent that this paragraph contains factual statements, Defendant denies same.

18. Defendant states that paragraph VI of Plaintiff's Petition contains legal argument, legal conclusions or recitation of state law, rather than factual statements, to which no response is required. To the extent that this paragraph contains factual statements, Defendant denies same.

19. For affirmative defense, Defendant alleges:

- A. Failure of consideration.
- B. Failure to mitigate damages.
- C. Failure to satisfy a condition precedent.
- D. Waiver, release, estoppel, judicial estoppel, ratification, acquiescence or consent.
- E. Express assumption of risk.
- F. Equitable estoppel and/or res judicata.
- G. Statute of Frauds.
- H. Failure to state a claim upon which relief may be granted.
- I. Failure to perform obligation.
- J. Unclean hands.
- K. Contributory negligence.
- L. Failure to investigate (Rule 11).

WHEREFORE, premises considered, Defendants prays that Plaintiff take nothing by her suit and that Defendant be awarded all relief, at law or in equity, to which it may be entitled,

including reasonable attorney fees and costs in defending this baseless action.

Date: April 11, 2023

Respectfully Submitted,

MICHAEL J. SCHROEDER, P.C.

/s/ Michael J. Schroeder

Michael J. Schroeder

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ATTORNEYS FOR FTS CAPITAL, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was electronically served on all counsel of record on April 11, 2023.

/s/ Michael J. Schroeder

Michael J. Schroeder